



PRICE DANIEL
ATTORNEY GENERAL

R-76

**OFFICE OF
THE ATTORNEY GENERAL
AUSTIN, TEXAS**

Honorable H. Bayne Satterfield
Firemen's Pension Commissioner
P. O. Box 1062
Austin, Texas

Dear Mr. Satterfield: Opinion No. V-85

Re: Should a fireman who is receiving a salary, and also benefiting under the "GI Bill" pay the required per centum to participate in the Firemen's Relief and Retirement Fund, on basis of total amounts received on city salary alone

You request the opinion of this department upon the following situation:

"We have a fireman who has been employed as a fireman by one of our Cities under the G. I. Training. The City pays him a salary of Ninety (\$90.00) Dollars per month and the Government pays him Seventy (\$70.00) Dollars per month. The question is:

"Should he pay into the fund on the basis of Ninety (\$90.00) Dollars per month salary or on the basis of his City salary plus the Government salary totaling One Hundred Sixty (\$160.00) Dollars per month?

Section 10 of Article 62^{43e} Vernon's Annotated Civil Statutes, the Act of the 45th Legislature, 1937, provides as follows:

"Within sixty (60) days after this Act takes effect each fully paid fireman and each part paid fireman whose salary or compensation is Fifty Dollars (\$50) or more per month and each part paid fireman whose salary or compensation is less than Fifty Dollars (\$50) per month and each active volunteer fireman in the employ of any such city or town or enrolled in the fire department of any such city or town, who desires himself or his beneficiaries, as hereinafter named, to participate in such Fund or the benefits therefrom as by this Act provided, shall file with the Secretary-Treasurer of the Board of Firemen's Relief and Retirement Fund Trustees of that city or town a statement in writing under oath that he desires to participate in the benefits from such Fund, giving the name and relationship of his then actual dependents and shall therein authorize said city or town or the governing body thereof to deduct not less than one per centum nor more than three (3) per centum, the exact amount thereof to be determined by the vote of the fire department of which such person is a member, from his salary or compensation if a wholly paid or part paid fireman whose salary or compensation is more than Fifty Dollars (\$50) per month, but if a part paid fireman whose salary is less than Fifty Dollars (\$50) per month, or if a volunteer fireman, this statement shall include a promise and an obligation to pay to said Board of Trustees not less than Three Dollars (\$3) nor more than Five Dollars (\$5) per annum to be paid semi-annually, the exact amount thereof to be likewise determined by vote of the fire department of which such person is a member. Such money so deducted from salaries or compensation or agreed to be paid to become and form a part of the Fund herein designated and established as Firemen's Relief and Retirement Fund of that city or town. Failure or refusal to make and file the statement herein provided, or failure or refusal to allow deduction from salary or to pay the amount herein specified as herein provided on the part of any

member shall forfeit his right to participate in any of the benefits from said Firemen's Relief and Retirement Fund. If any such member shall elect not to participate in such Fund, he shall not be liable for any salary deduction nor to pay as herein provided."

It is apparent from a reading of this section of the Act that participants who desire shall . . . authorize said city or town or the governing body thereof to deduct not less than one per centum nor more than three (3) per centum . . . from his salary or compensation . . ."

In electing to participate in the "Firemen's Fund," this fireman was, in our opinion, only obligating for deduction "his salary or compensation" paid for his services and not any part of the "Benefit" that he received because of his veteran's status. The Statute is clear, in naming, "salary or compensation" as the money from which the required per centum deduction shall be made.

SUMMARY

Under Section 10, Article 6243e, V.C.S., a fireman, upon his election, may be required to pay a per centum of his "salary" for the "Firemen's Relief Pension Fund," but not a per centum of "benefits" derived from the Veteran's Administration G. I. training program. Such benefits are not salary or compensation within the meaning of this statute.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/
Charles P. Atkinson
Assistant

CPA/egt/lh

Approved: March 17, 1947
/s/ Price Daniel
Attorney General of Texas